

AMENDED IN SENATE JULY 9, 2009
AMENDED IN SENATE JULY 1, 2009
AMENDED IN SENATE JUNE 25, 2009
AMENDED IN SENATE JUNE 17, 2009
AMENDED IN SENATE JUNE 11, 2009
AMENDED IN ASSEMBLY JUNE 1, 2009
AMENDED IN ASSEMBLY MAY 14, 2009
AMENDED IN ASSEMBLY APRIL 30, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1383

Introduced by Assembly Member Jones
(Principal coauthor: Senator Alquist)
(Coauthor: Assembly Member De Leon)

February 27, 2009

An act to add and repeal Articles 5.21 (commencing with Section 14167.2) and 5.22 (commencing with Section 14167.32) of, Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1383, as amended, Jones. Medi-Cal: hospitals: supplemental payments: coverage dividend fee.

Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which basic health care services are provided to qualified low-income persons. Under

existing law, the Medi-Cal Hospital/Uninsured Care Demonstration Project Act, specified hospital reimbursement methodologies are applied in order to maximize the use of federal funds consistent with federal Medicaid law and stabilize the distribution of funding for hospitals that provide care to Medi-Cal beneficiaries and uninsured patients.

This bill would require the department, *pursuant to additional legislation described below*, to pay specified hospitals and Medi-Cal managed health care plans supplemental amounts for certain hospital services.

This bill would require the Director of Health Care Services to promptly seek the federal approvals that may be necessary to implement the above-described supplemental payment provisions.

This bill would prohibit supplemental payments for some or all of the 2008–09 federal fiscal year until the director executes a declaration, which shall be submitted to the Legislature, containing statements relating to the impact this bill’s provisions will have on other Medi-Cal reimbursement methodologies.

This bill would ~~impose~~ *provide for the imposition, pursuant to additional legislation described below, and as a condition of receiving state funds*, a coverage dividend fee on certain hospitals ~~starting on the date that the bill becomes effective and continue through and, through,~~ and including, December 31, 2010, as specified. This bill would require the director to seek federal approval of the fee. The bill would provide that no hospital shall be required to pay the coverage dividend fee to the department until the state receives and maintains federal approval of the fee and the above-described supplemental payments from the federal Centers for Medicare and Medicaid Services.

This bill would provide that the funds collected from the coverage dividend fee, and any matching federal funds, shall only be used for certain purposes, including providing the above-described supplemental payments and health care coverage for children.

This bill would require the director to negotiate the federal approvals required to implement the bill’s provisions for the 2009–10 and 2010–11 federal fiscal years concurrently with the negotiation of a federal waiver that will replace the current Medi-Cal Hospital/Uninsured Care Demonstration Project. The bill would provide that its provisions shall not be implemented until the federal government approves a federal waiver for a demonstration that will replace the current Medi-Cal Hospital/Uninsured Care Demonstration Project and is not adversely impacted by the bill’s provisions.

This bill would provide that its provisions shall become inoperative if the federal Centers for Medicare and Medicaid Services deny approval for, or do not approve before January 1, 2012, the implementation of the supplemental payment or the coverage dividend fee.

This bill provides that it is the intent of the Legislature to enact additional legislation that will specify more precisely the calculation of the supplemental payment to individual hospitals and the amount of the coverage dividend fee due from individual hospitals. *The bill would provide that the additional legislation shall provide for imposition and for the calculations in a manner in accordance with a fee assessment.* The bill provides that no supplemental payment shall be paid or coverage dividend fee made due or payable until the additional legislation has been enacted. If the additional legislation is not enacted, and does not become effective, by October 1, 2009, the bill would provide that its provisions shall be repealed on October 1, 2009, but if the additional legislation is enacted, and becomes effective, by October 1, 2009, the bill would provide that its provisions shall be repealed on January 1, 2013.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 5.21 (commencing with Section 14167.2)
2 is added to Chapter 7 of Part 3 of Division 9 of the Welfare and
3 Institutions Code, to read:

4
5 Article 5.21. Medi-Cal Hospital Provider Rate Stabilization
6 Act

7
8 14167.2. (a) Medi-Cal payments plus supplemental payments
9 made pursuant to this article for hospital outpatient services
10 furnished by private hospitals and hospital inpatient services
11 furnished by private hospitals and nondesignated public hospitals
12 shall equal the federal upper payment limit for that portion of the
13 2008–09, 2009–10, and 2010–11 federal fiscal years for which
14 federal approval of the supplemental payments described in this
15 article is obtained. Hospitals shall, *pursuant to additional*

1 *legislation described in Sections 14167.4 and 14167.38*, receive
2 supplemental payments funded by the coverage dividend fee set
3 forth in Article 5.22 (commencing with Section 14167.32) and
4 available matching federal funds to comply with this subdivision.

5 (b) Designated public hospitals shall, *pursuant to additional*
6 *legislation described in Sections 14167.4 and 14167.38*, be paid
7 direct grants in support of health care expenditures, which shall
8 be funded by the coverage dividend fee set forth in Article 5.22
9 (commencing with Section 14167.32). The aggregate amount of
10 the grants shall be the total amount of payments that would be
11 made to designated public hospitals if the nonfederal component
12 of payments up to the applicable federal upper payment limit and
13 the payments received by those hospitals under subdivision (c)
14 was funded by the coverage dividend fee set forth in Article 5.22
15 (commencing with Section 14167.32), less the amount of those
16 fees that would have been paid by the designated public hospitals
17 if the hospitals were required to pay the fee.

18 (c) Medi-Cal managed care health plans shall, *pursuant to*
19 *additional legislation described in Sections 14167.4 and 14167.38*,
20 receive supplemental payments to the extent available from the
21 funds generated by the coverage dividend fee, including matching
22 federal funds. The Medi-Cal managed care health plans shall pay
23 all of the supplemental payments to hospitals in the form of
24 increased payments for hospital services.

25 14167.3. (a) The director shall do all of the following:

26 (1) Submit any Medicaid state plan amendment that may be
27 necessary to implement this article.

28 (2) Seek federal approval for the use of the entire federal upper
29 payment limit.

30 (3) Seek all federal approvals, waivers, waiver modifications,
31 and any other federal action as may be necessary to implement
32 and obtain federal financial participation to the maximum extent
33 possible.

34 (b) Supplemental payments for some or all of the 2008–09
35 federal fiscal year shall not be made until the director executes a
36 declaration, which shall be submitted to the Legislature, that
37 contains the following statements:

38 (1) Based on assurances from the Secretary of the United States
39 Department of Health and Human Services, the maximum federal
40 funds available annually pursuant to the Special Terms and

1 Conditions, as amended October 5, 2007, of California's Medi-Cal
2 Hospital/Uninsured Care Section 1115 Waiver Demonstration,
3 shall not be reduced.

4 (2) Taking into account all relevant information available from
5 the federal government, there is no reasonable basis on which to
6 conclude that implementation of this article will adversely impact
7 funding that otherwise would be available for Medi-Cal and
8 uninsured services pursuant to the Medicaid state plan or waiver
9 that will replace California's Medi-Cal Hospital/Uninsured Care
10 Section 1115 Waiver Demonstration in effect on the effective date
11 of this article.

12 (c) (1) The director shall negotiate the federal approvals
13 required to implement this article and Article 5.22 (commencing
14 with Section 14167.32) for the 2009–10 and 2010–11 federal fiscal
15 years concurrently with the negotiation of a federal waiver that
16 will replace California's Medi-Cal Hospital/Uninsured Care Section
17 1115 Waiver Demonstration in effect on the effective date of this
18 article.

19 (2) This article and Article 5.22 (commencing with Section
20 14167.32) shall not be implemented until the federal government
21 approves a federal waiver for a demonstration that will replace
22 California's Medi-Cal Hospital/Uninsured Care Section 1115
23 Waiver Demonstration in effect on the effective date of this article.

24 (d) This article shall become inoperative if the federal Centers
25 for Medicare and Medicaid Services denies approval for, or does
26 not approve before January 1, 2012, the implementation of this
27 article or Article 5.22 (commencing with Section 14167.32).

28 14167.4. (a) It is the intent of the Legislature to enact
29 additional legislation that will specify more precisely the
30 calculation of the supplemental payments to hospitals and to
31 Medi-Cal managed care health plans under this article. *The*
32 *additional legislation shall provide for the calculation of the*
33 *amount of the supplemental payment to hospitals and Medi-Cal*
34 *managed care health plans in a manner that is consistent with the*
35 *coverage dividend fee described in Article 5.22 (commencing with*
36 *Section 14167.32) being a fee assessment.*

37 (b) No supplemental payments shall be made pursuant to this
38 article until the legislation described in subdivision (a) has been
39 enacted.

1 14167.5. (a) If the legislation described in subdivision (a) of
2 Section 14167.4 is not enacted, and does not become effective, by
3 October 1, 2009, this article shall remain in effect only until
4 October 1, 2009, and as of that date is repealed.

5 (b) If the legislation described in subdivision (a) of Section
6 14167.4 is enacted, and becomes effective, by October 1, 2009,
7 this article shall remain in effect only until January 1, 2013, and
8 as of that date is repealed.

9 SEC. 2. Article 5.22 (commencing with Section 14167.32) is
10 added to Chapter 7 of Part 3 of Division 9 of the Welfare and
11 Institutions Code, to read:

12
13 Article 5.22. Hospital Coverage Dividend Fee Act
14

15 14167.32. (a) There shall be imposed, *pursuant to additional*
16 *legislation described in Sections 14167.4 and 14167.38*, a coverage
17 dividend fee that is consistent with the principle of shared benefit
18 and shared responsibility.

19 (b) The coverage dividend fee shall, *as a condition of receipt*
20 *of state funds*, be assessed, *pursuant to additional legislation*
21 *described in Sections 14167.4 and 14167.38*, on hospitals licensed
22 pursuant to subdivision (a) of Section 1250 of the Health and Safety
23 Code, except for public hospitals, as defined in paragraph (25) of
24 subdivision (a) of Section 14105.98, and hospitals that are
25 designated as specialty hospitals in the hospital's annual financial
26 disclosure reports for the hospital's latest fiscal year ending in
27 2008, ~~commencing on the effective date of this article and shall~~
28 ~~continue through, and, including, through, and including,~~
29 December 31, 2010.

30 (c) The director shall seek, in a timely manner, any and all
31 federal approvals that may be necessary for the implementation
32 of each element of this article.

33 (d) This article shall become inoperative if the federal Centers
34 for Medicare and Medicaid Services denies approval for, or does
35 not approve before January 1, 2012, the implementation of Article
36 5.21 (commencing with Section 14167.2) or this article.

37 (e) No hospital shall be required to pay the coverage dividend
38 fee to the department until the state receives and maintains federal
39 approval of the coverage dividend fee and Article 5.21
40 (commencing with Section 14167.2) from the federal Centers for

1 Medicare and Medicaid Services for the period for which the
2 coverage dividend fee is assessed.

3 14167.35. (a) The funds collected from the fees assessed
4 pursuant to this article, and any matching federal funds, shall be
5 available only for the following purposes:

6 (1) To provide supplemental payments and grants to hospitals
7 under subdivisions (a) and (b) of Section 14167.2.

8 (2) To provide supplemental payments to Medi-Cal managed
9 care health plans under subdivision (c) of Section 14167.2.

10 (3) To pay for health care coverage for children.

11 (4) To pay for the department's staffing costs directly
12 attributable to implementing Article 5.21 (commencing with
13 Section 14167.2) or this article.

14 (b) The amount of the coverage dividend fee that shall be used
15 for health care coverage for children shall be eighty million dollars
16 (\$80,000,000) for each quarter during the federal fiscal year that
17 begins after the actual date on which all federal approvals are
18 obtained that are necessary to implement Article 5.21 (commencing
19 with Section 14167.2) and this article.

20 14167.38. (a) It is the intent of the Legislature to enact
21 additional legislation that will specify more precisely the
22 calculation of the amount of the coverage dividend fee due from
23 individual hospitals under this article. *The additional legislation*
24 *shall provide for the imposition, after the coverage dividend fee,*
25 *and for the calculation of the amount of the coverage dividend fee*
26 *assessed on each hospital, in a manner in accordance with a fee*
27 *assessment.*

28 (b) No coverage dividend fee shall be made due or payable
29 pursuant to this article until the legislation described in subdivision
30 (a) has been enacted.

31 14167.39. (a) If the legislation described in subdivision (a) of
32 Section 14167.38 is not enacted, and does not become effective,
33 by October 1, 2009, this article shall remain in effect only until
34 October 1, 2009, and as of that date is repealed.

35 (b) If the legislation described in subdivision (a) of Section
36 14167.38 is enacted, and becomes effective, by October 1, 2009,
37 this article shall remain in effect only until January 1, 2013, and
38 as of that date is repealed.

39 SEC. 3. This act is an urgency statute necessary for the
40 immediate preservation of the public peace, health, or safety within

1 the meaning of Article IV of the Constitution and shall go into
2 immediate effect. The facts constituting the necessity are:
3 In order to make the necessary statutory changes to increase
4 Medi-Cal payments to hospitals and improve access, at the earliest
5 possible time, so as to allow this act to be operative as soon as
6 approval from the federal Centers for Medicare and Medicaid
7 Services is obtained by the State Department of Health Care
8 Services, it is necessary that this act take effect immediately.

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